

LEASE

THIS AGREEMENT is dated for reference September 20, 2021,

BETWEEN:

BC TRANSPORTATION FINANCING AUTHORITY, a corporation continued under the *Transportation Act*, having an office at 5A – 940 Blanshard Street, PO Box 9850 Stn Prov Govt, Victoria, BC V8W 9T5

(the “**Lessor**”)

AND:

BC TRANSIT

(the “**Lessee**”)

(the Lessor and Lessee, individually, a “**Party**”, and collectively, the “**Parties**”)

WHEREAS:

- A. The Lessor is the owner of the Land, which is currently unimproved.
- B. The Lessor has agreed to lease the Land to the Lessee for the Term in order that the Lessee may erect the Buildings and use, occupy, and enjoy the Land and the Buildings upon the terms and conditions, and subject to the provisos, contained in this Lease.

FOR VALUABLE CONSIDERATION, the Parties agree as follows:

ARTICLE 1 - DEFINITIONS

1.1 In this Agreement:

“**Additional Rent**” means all amounts which the Lessee is required to pay to the Lessor under this Agreement other than Basic Rent, and includes, without restricting the generality of the foregoing, all costs, charges, expenses or outlays occurred by the Lessor of any nature whatsoever arising from or relating to the use, occupation and operation of the Land;

“**Agreement**” means this lease and all schedules attached hereto;

“**Authority**” means the city or other municipal authority having jurisdiction over development on the Land.

“**Basic Rent**” means the amount described in section 3.1;

“**Buildings**” means all structures and buildings constructed upon the Land or any part of them by or for the Lessee pursuant to the provisions of this Lease, including, without limitation, hard landscaping and all necessary services and ancillary facilities, together with all replacements, alterations, additions, changes, substitutions, improvements, or repairs to them and all other improvements from time to time constructed upon or affixed or appurtenant to the Land.

“**Commencement Date**” means September 20, 2021;

"Contamination" and "Contaminated" mean the presence of any Environmental Contaminants in any soil, sediment, water or groundwater in, on, at, under or emanating from the Land in concentrations above applicable numeric standards for use as a commercial site, or above site specific risk based standards as may be established under Environmental Laws;

"Development Permit" means the development permit issued by the Authority to the Lessee relating to the development of the Land.

"Environmental Contaminants" means any substance, including without limitation, urea formaldehyde, hydrocarbons, lead, polychlorinated biphenyls ("**PCBs**"), asbestos, vermiculite, mould, pollutants, contaminants, deleterious substances, dangerous substances or goods, hazardous corrosive or toxic substances, hazardous wastes, wastes, pesticides, defoliants, and any material, including without limitation radioactive material, asbestos-containing materials, PCB-containing equipment or materials, underground or above-ground, and any other liquid, gas, vapour, odour, heat, sounds, vibrations, radiation, or a combination of any of them, the storage, manufacture, disposal, handling, treatment, generation, use, remediation or release into or presence in, the environment of which is now or hereinafter prohibited, controlled or regulated under Environmental Laws;

"Environmental Laws" means any and all statutes, laws, regulations, orders, bylaws, permits and other lawful requirements of any applicable governmental authority having jurisdiction over the Land, now or hereafter in force relating to the environment (including without limitation Contamination), health, occupational health and safety, product liability or transportation of dangerous goods, including all applicable guidelines and standards with respect to the foregoing as adopted by any of those governmental authorities from time to time and the principles of common law and equity;

"Land" means that part of the following described lands as shown in blue, specifically excluding the area in pink and in green, on the sketch plan attached as Schedule A,:

Parcel Identifier:	024-850-225
Legal Description:	THAT PART OF SECTION 6 LAKE DISTRICT (LYING PARTLY IN ESQUIMALT DISTRICT) INCLUDED WITHIN PLAN VIP71333, EXCEPT THAT PART IN PLAN VIP88964

Parcel Identifier:	001-659-766
Legal Description:	THAT PART OF SECTION 6, LAKE DISTRICT INCLUDED WITHIN THE AREA SHOWN COLOURED RED ON PLAN DEPOSITED UNDER DD 153771

"Land Use Arrangement" except licenses to the Lessee's contract operators to perform Transit Services, means all subleases, licences, tenancy agreements or any rights of use and occupation of every nature and kind, present and future, existing or at any time made during the existence of this Agreement in respect of any portion of the Land or Buildings;

"Province" means Her Majesty the Queen in Right of the Province of British Columbia;

"Realty Taxes" means all taxes, rates, levies, duties, charges and assessments lawfully levied or charged, at any time, by any competent governmental authority which relate to the Land, the Buildings or both of them;

"Rent" means Basic Rent and Additional Rent;

"Substantial Completion" means substantial completion as defined in Section 6.2 of this Lease;

"Statutory Charges" means the charges set out in paragraph 107(1)(d) of the *Land Title Act*;

"Term" means the Initial Term, and if applicable, any Renewal Term set out in section 2.2;

"Transit Services" means those services and facilities necessary for the establishment, maintenance and operation of a public passenger transportation system provided by the Lessee or its contract operators; and

"Utilities" means any existing utilities located on the Land.

ARTICLE 2 - GRANT AND TERM

2.1 On the terms and conditions set out in this Agreement the Lessor grants to the Lessee a lease over the Land for the sole purpose of constructing, operating, and maintaining the Transit Services.

2.2 The term of this Agreement:

- (a) commences on the Commencement Date and terminates on September 20, 2041 (the **"Initial Term"**);
- (b) the Parties may agree to renew the term for a further period of 20 years, from September 21, 2041 to September 20, 2061 (the **"First Renewal Term"**) upon all of the same covenants, agreements and conditions contained in this Agreement (except this section 2.3 relating to the First Renewal Term and Article 9, Insurance) or as may otherwise be agreed by the Parties;
- (c) the Parties may agree to renew the term for a second renewal period of 20 years, from September 21, 2061 to September 20, 2081 (the **"Second Renewal Term"**) upon all of the same covenants, agreements and conditions contained in this Agreement (except this section 2.3 relating to the First Renewal Term and the Second Renewal and Article 9, Insurance) or as may otherwise be agreed by the Parties;
- (d) the Parties may agree to renew the term for a third renewal period of 20 years, from September 21, 2081 to September 20, 2101 (the **"Third Renewal Term"**) upon all of the same covenants, agreements and conditions contained in this Agreement (except this section 2.3 relating to the First Renewal Term, the Second Renewal Term, the Third Renewal Term and Article 9, Insurance) or as may otherwise be agreed by the Parties; and
- (e) the Parties may agree to renew the term for a final renewal period of 19 years, from September 21, 2101 to September 20, 2120 (the **"Final Renewal Term"**) upon all of the same covenants, agreements and conditions contained in this Agreement (except this section 2.3 relating to the First Renewal Term, the Second Renewal Term, the Third Renewal Term, the Final Renewal Term and Article 9, Insurance) or as may otherwise be agreed by the Parties.

2.3 The Lessee acknowledges and agrees that for any renewal term pursuant to section 2.2, the Lessor will conduct a market review (prior to the end of the Term or any renewal term for which a renewal has been required by the Lessee) the insurance requirements under Article 9 for any renewal term of this Agreement. Article 9 of this Agreement will be amended in accordance with the insurance requirements of the Lessor as at the commencement date of any renewal term.

ARTICLE 3 - RENT

- 3.1 The parties acknowledge receipt from the Lessee ^{s.17} as Basic Rent for the Term.
- 3.2 It is the intention of the Lessor and Lessee that all expenses, costs, payments, and outgoings incurred in respect of the Land, the Buildings, and any other improvements of the Land or for any other matter or thing affecting the Land, will be borne by the Lessee and unless expressly stipulated to the contrary, the Basic Rent will be absolutely net to the Lessor and free of all abatements, set off, or deduction of real property taxes, charges, rates, assessments, expenses, costs, payments, or outgoings of every nature arising from or related to the Land, the Buildings or any other improvements on the Land and, unless expressly stated to the contrary, the Lessee will pay or cause to be paid all such taxes, charges, rates, assessments, expenses, costs, payments, and outgoings.

ARTICLE 4 - CONDITION, REPAIR AND MAINTENANCE

- 4.1 The Lessee acknowledges, agrees to, and accepts the Land in the condition it exists as at the Commencement Date. The Lessee will at all times at its own cost and expense, inspect, maintain and repair the Land and the Buildings.
- 4.2 The Lessee will provide the Lessor, their respective employees, servants, agents and contractors access to the Land and the Buildings as the Lessor reasonably requires from time to time to determine if the Lessee is complying with its obligations under this Agreement.
- 4.3 If at any time the Lessee fails to comply with any of its obligations under this Agreement, including, without limitation, its obligation to keep the Land and the buildings in a safe, secure and clean condition as or is in breach of any section under 5.1, the Lessor may give notice in writing to the Lessee to correct that failure or breach and, if the Lessee fails to correct such failure or breach within 30 days of receipt of such notice (or within such other time period as may be specified in the notice by the Lessor, acting reasonably), the Lessor may enter on the Land at any time to correct the failure or breach, and recover from the Lessee as Additional Rent, the cost thereof plus a 15% administrative charge on the total amount of such costs.

ARTICLE 5 – COVENANTS (INCLUDING ENVIRONMENTAL COVENANTS)

- 5.1 The Lessee must:
- (a) pay, when due,
 - (i) the Rent to the Lessor at the address set out in Article 13;
 - (ii) the Realty Taxes, if applicable; and
 - (iii) all charges for all utilities and services used in or supplied to the Land and the Buildings throughout the Term, including without limitation gas, electricity, light, heat, cooling, power, telephone, cable, internet, water, and will indemnify and keep indemnified the Lessor from and against payment of all losses, costs, charges, and expenses occasioned by or arising from any and all such charges, and any such loss, costs, charges, and expenses that relate to such charges suffered by the Lessor may be collected by the Lessor as Additional Rent.;
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- (b) observe, abide by, and solely bear all costs incurred in complying with:
 - (i) all applicable laws, bylaws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Land and the Buildings, or their use and occupation; and
 - (ii) the provisions of this Agreement;
- (c) keep and maintain the Land and the Buildings in a safe, secure and clean condition satisfactory to the Lessor, acting reasonably;
- (d) develop and use the Land and the Buildings only in compliance with all Environmental Laws;
- (e) permit the Lessor to investigate the Land and the Buildings, any goods on the Land or Buildings, and the Lessee's records at any time and from time to time to verify such compliance with Environmental Laws and this Lease;
- (f) except in compliance with Environmental Laws, not store, manufacture, dispose, treat, generate, use, transport, remediate, or Release Environmental Contaminants on or from the Land or Buildings without notifying the Lessor in writing and receiving prior written consent from the Lessor, which consent may be unreasonably or arbitrarily withheld;
- (g) promptly remove any Environmental Contaminants from the Land or Buildings in a manner that conforms to Environmental Laws governing their removal;
- (h) notify the Lessor in writing of:
 - (i) any enforcement, clean-up, removal, litigation, or other governmental, regulatory, judicial, or administrative action instituted, contemplated, or threatened against the Lessee, the Land, or the Buildings pursuant to any Environmental Laws;
 - (ii) all claims, actions, orders, or investigations instituted, contemplated, or threatened by any third party against the Lessee, the Land, or the Buildings relating to damage, contribution, cost recovery, compensation, loss, or injuries resulting from any Environmental Contaminants or any breach of the Environmental Laws; and
 - (iii) the discovery of any Environmental Contaminants or any occurrence or condition on the Land or Buildings or any real property adjoining or in the vicinity of the Land that could subject the Lessee, the Land, or the Buildings to any fines, penalties, orders, or proceedings under any Environmental Laws; and
- (i) indemnify, defend, and save harmless the Lessor and respective servants, directors, officers, employees, deputies, delegates, representatives and agents from any and all liabilities, actions, damages, claims, remediation cost recovery claims, losses (including, without limitation, diminution in value), orders, fines, penalties, costs, and expenses whatsoever (including without limitation any and all environmental or statutory liability for remediation, all legal fees and expenses on a full indemnity basis, all consultants' fees and expenses, and all costs of removal, treatment, storage, and disposal of Environmental Contaminants and remediation of the Premises, Land, Buildings, and any adjacent property) that may be paid by, incurred by, or asserted against the Lessor or its shareholders, directors, officers, employees, agents, representatives, successors, or assigns, during or after the Term (or any extension or renewal of the Term), arising from or in connection with any breach of or non-compliance with the provisions of this Article 5 by the Lessee or arising from or in connection with:
 - (i) any legal or administrative action, proceeding, investigation, demand, claim, or notice of any third party, including without limitation any government authority,

against any one or more of them pursuant to or under Environmental Laws; or

- (ii) the presence of any Environmental Contaminants in, on, at, or under the Premises, Land, or Buildings, or any Release or alleged Release of any Environmental Contaminants at or from the Premises, Land, or Buildings,

related to or as a result of the use and occupation of the Land and the Buildings by the Lessee or those for whom it is in law responsible or any act or omission of the Lessee or any person for whom it is in law responsible, including, without limitation, its employees, agents, contractors, subcontractors, subtenants, permittees, and licensees;

- (j) not commit any wilful or voluntary waste, spoil or destruction on the Land or do anything on the Land that may be or become a nuisance or annoyance to an owner or occupier of land in the vicinity of the Land;
- (k) ensure that emergency vehicles have access to the Land at all times; and
- (l) use and occupy the Land and the Buildings only in accordance with and for the purpose of the Transit Services.

- 5.2 The Lessee acknowledges that the Lessor has not made any representations, warranties, covenants or agreements with respect to the environmental condition of the Land.
- 5.3 The covenants contained in this Article 5 will survive the expiry or earlier termination of this Agreement.
- 5.4 The Lessee must not permit any person to do anything the Lessee is restricted from doing under this Article 5.

ARTICLE 6 – CONSTRUCTION AND BUILDINGS

- 6.1 Prior to the commencement of any development on the Land, the Lessee will apply to the Authority for a Development Permit and any other permits necessary to construct the Buildings, and at the same time deliver to the Lessor drawings, elevations (where applicable), specifications (including the materials to be used), locations (where applicable), and exterior decoration and design of the proposed Buildings for the Lessor's approval, which approval the Lessor agrees not to unreasonably withhold or delay. Upon receipt of the Lessor's approval and a building permit, the Lessee will construct the Buildings, together with other facilities ancillary to and connected with the Buildings on the Land, expeditiously and in a good and workmanlike manner and in substantial accordance with the drawings, elevations, specifications (including materials to be used), location on the Land, and exterior decoration and design all upon which the issuance of the building permits by the Authority having jurisdiction are based.
- 6.2 The Buildings will be deemed to have been Substantially Completed when the architect or engineer of the Lessee has issued a certificate to the Lessor, signed and sealed by the architect or engineer, certifying that:
 - (a) the Buildings are "completed" in accordance with the *Builders Lien Act* (British Columbia) and substantially complete in all material respects in a proper and workmanlike manner and in accordance with the applicable plans, specifications, and supporting documents submitted to and accepted by the Lessor upon which the issuance by the Authority of any development permit and building permits for the Buildings has been based, except for deficiencies the correction of which, in the opinion of the architect or engineer, is adequately ensured;

- (b) all building bylaws and regulations of the Authority have been complied with by the Lessee except for deficiencies the correction of which, in the opinion of the architect or engineer, is adequately ensured;
- (c) all permits for occupancy that may be required by the Authority have been obtained; and
- (d) the Buildings are ready for occupancy.

For purposes other than Section 6.2, Substantial Completion may be in respect of portions of the Buildings.

- 6.3 The Lessee covenants and agrees with the Lessor that neither the Land nor the Buildings, nor any part of the Land or the Buildings, will be used for any purposes except that of the Transit Services, together with other facilities ancillary to and connected with the Buildings as specified in the Development Permit.
- 6.4 The Lessor will not be obliged to furnish any services or facilities or to make repairs, alterations, or replacements in or to the Land or the Buildings, the Lessee hereby assuming the full and sole responsibility for the condition, operation, repair, replacement, maintenance, and management of the Land and the Buildings.
- 6.5 The Lessee will during the Term, at its cost, by itself or by the use of agents, put and keep in good order and condition (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings) the Land and the Buildings, and the appurtenances and equipment of them, both inside and outside, including but not limited to fixtures, walls, foundations, roofs, vaults, elevators (if any) and similar devices, heating, cooling, and air-conditioning equipment, sidewalks, landscaping, yards and other like areas, water and sewer mains and connections, water, steam, gas, and electric pipes and conduits, and all other fixtures on the Land and the Buildings and machinery and equipment used or required in the operation of them, whether or not enumerated in this Lease, and will, in the same manner and to the same extent as a prudent owner, make any and all necessary repairs, replacements, alterations, additions, changes, substitutions, and improvements, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise, and keep the Buildings and aforesaid fixtures, appurtenances, and equipment fully usable for all of the purposes for which the Buildings were erected and constructed and the specified fixtures, appurtenances, and equipment were supplied and installed. Such repairs and replacements will be in all respects to the standard at least substantially equal in quality of material and workmanship to the original work and material in the Buildings and aforesaid fixtures, appurtenances, and equipment.
- 6.6 At the expiration or other termination of this Lease, the Lessee will, except as may be otherwise expressly provided in this Lease, surrender and deliver up the Land with the Buildings and the fixtures, appurtenances, and equipment attached thereto, including all replacements and substitutions, in good order and condition, reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings.
- 6.7 If at any time during the Term the Lessee fails to maintain the Land and maintain, repair, or replace the Buildings and the fixtures, appurtenances, and equipment of them, both inside and outside, in the condition required by the provisions of Section 6.5, the Lessor through its agents, employees, contractors, and subcontractors may but will not be obliged to enter upon those parts of the Land and the Buildings required for the purpose of making the repairs required by Section 6.5. The Lessor will make such repairs, only after giving the Lessee 60 days' written notice of its intention so to do, except in the case of an emergency when no notice to the Lessee is required. Any amount paid by the Lessor in making such repairs to the Land and the Buildings or any part or parts thereof, together with all costs and expenses of the Lessor, will be reimbursed to the Lessor by the Lessee on demand plus a 15% administration fee.

- 6.8 The Lessee covenants and agrees with the Lessor that in the event of damage to or partial destruction of the Buildings, the Lessee, subject to the regulations and requirements of the Authority and any other government authority having jurisdiction, will repair, replace, or restore any part of the Buildings so destroyed.
- 6.9 The Lessee covenants and agrees with the Lessor that in the event of complete or substantially complete destruction of the Buildings, the Lessee, subject to the regulations and requirements of the Authority and any other government authority having jurisdiction, will reconstruct or replace the Buildings with structures comparable to those being replaced.
- 6.10 It is agreed that the Lessor will not be responsible for claims of builders' liens filed by persons claiming through the Lessee or persons for whom the Lessee is in law responsible. The Lessee acknowledges and agrees that the improvements to be made to the Land are made at the Lessee's request solely for the benefit of the Lessee and those for whom the Lessee is in law responsible.

ARTICLE 7 - INDEMNITY

7.1 In this Article:

"Lessee Parties" means the Lessee, its servants, employees, agents, contractors and others for whom it is responsible at law;

"Indemnified Parties" means the Lessor and the Province and their respective officers, directors, servants, employees and agents; and

"Transit Services" includes the Transit Services and any related or ancillary services or facilities.

7.2 The Lessee agrees to:

- (a) indemnify and save the Indemnified Parties harmless against all claims, demands, actions, causes of action, losses, damages, fines, penalties, costs and liabilities, including fees of solicitors and other professional advisors, arising out of or in connection with

- (i) the Lessee's breach, violation or non-performance of a provision of this Agreement;
- (ii) any personal injury, bodily injury (including death) or property damage occurring or happening on or off the Land by virtue of the Lessee's entry upon, use or occupation of the Land; and
- (iii) without limiting paragraph (ii), any environmental liability on or off the Land related to the Lessee's entry upon, use or occupation of the Land, including, without limitation, any contamination or any liability related to any toxic, hazardous, dangerous or potentially dangerous substances migrating from the Land;

and the amount of all such losses, damages, fines, penalties, costs, expenses and liabilities will be payable to the Indemnified Parties immediately upon demand; and

- (b) release the Indemnified Parties and their respective servants, employees, officers, directors and agents from and against all claims, demands, actions, causes of action, losses, damages, fines, penalties, costs, expenses and liabilities arising out of or in connection with any environmental liability on or off the Land related to the Lessee's entry upon, use or occupation of the Land, including, without limitation, any contamination or any liability related to any toxic, hazardous, dangerous or potentially dangerous substances migrating from the Land.

- 7.3 The provisions of this Article 7 will survive and continue after the expiration or sooner termination of this Agreement.

ARTICLE 8

- 8.1 The Lessee agrees with the Lessor that this Agreement is subject to the Statutory Charges.

ARTICLE 9 - INSURANCE

- 9.1 The Lessee must, without limiting its obligations or liabilities under this Agreement, at its expense, maintain during the Term

- (a) Commercial General Liability Insurance including non-owned automobile and contractual liability insurance with inclusive limits of not less than FIVE MILLION (\$5,000,000.00) for bodily injury, death or property damage arising from any one accident or occurrence, which coverage will indemnify the Lessee and Additional Insured under the coverage for all sums which the Lessee or Additional Insured may become liable to pay or pays for bodily injury, death or property damage or for loss of use, arising out of or resulting from the work or operations of the Lessee under this Agreement, and which must be endorsed as follows:

"It is understood and agreed that Her Majesty the Queen in Right of the Province of British Columbia as represented by the Minister of Transportation and Infrastructure (the "Province"), together with the employees, agents (including the BC Transportation Financing Authority and its officers, directors, employees, servants and agents), and servants of the Province will be included as Additional Insured's under this policy, in respect of liability arising from the work or operations of the Lessee in connection with contracts entered into between the Lessee and the Additional Insured.

The coverage as is afforded will apply in the same manner and to the same extent as though a separate coverage had been issued to each interest. Any breach of a condition of the coverage by any interest will not affect the protection given by this coverage to any other insured. The inclusion herein of more than one insured will not operate to increase the limit of liability under this coverage.";

Which must include an endorsement or provision that it may not be cancelled, reduced, altered or materially changed without the insurer or insurers giving not less than 30 days' prior written notice to the Lessor by registered mail, which endorsement or provision must be in terms comparable to those normally obtainable from insurers in the Province of British Columbia or Canada issuing comparable policies.

- (b) Sudden and Accidental Pollution Liability coverage in amounts of not less than FIVE MILLION DOLLARS (\$5,000,000.00) in accordance with the Insurance Bureau of Canada subject to 120 hours/120 hours
- (c) if unmanned aerial vehicle systems are used in the performance of this Agreement and are owned, leased or rented by the Contractor, then third party liability coverage, in accordance with the requirements of Transport Canada – Canadian Aviation Regulations (CARs) but for inclusive limits of not less than FIVE MILLION DOLLARS (\$5,000,000.00) must be provided.
- (d) if any licensed vehicles are owned, leased, rented or used by the Lessee in the performance of this Agreement, Automobile Liability Coverage with inclusive limits of not less than FIVE MILLION DOLLARS (\$5,000,000.00) providing third party liability and accident benefits insurance for all such vehicles, and

- (e) if aircraft (including helicopters) are owned, rented, leased or used by the Lessee in the performance of this Agreement, third party liability coverage with inclusive limits of not less than FIVE MILLION DOLLARS (\$5,000,000.00);
- 9.2 All insurance required to be maintained by the Lessee under this Agreement must be placed with insurers licensed to transact business in British Columbia or Canada and, the Lessee must, under the insurance required to be maintained by it under this Agreement,
- (a) pay all deductibles;
 - (b) not exclude hazardous operations such as excavation, pile driving, shoring, blasting, underpinning or demolition work or any other operation or work from insurance coverage;
 - (c) deliver to the Lessor, on the Commencement Date, on the renewal of the insurance and at other times required by it
 - (i) for all policies except Automobile Liability Insurance, a completed and executed certificate of insurance in a form acceptable to the Lessor (as of the Commencement Date, such form is entitled "Certificate of Insurance" and is numbered H0111), and
 - (ii) evidence of Automobile Liability Insurance in the form of a duly executed Insurance Corporation of British Columbia APV47 or APV250 form or a copy of the vehicle registration/insurance certificate;
 - (d) on the Lessor's request, deliver to it evidence that the insurance remains in force and effect by way of the originals or certified copies of all current insurance policies and endorsements.
- 9.3 The Lessee acknowledges and agrees that, in the event of any third party loss or damage or any physical loss or damage to the Land, Lessee will waive their right of recovery against the Lessee, or those for whom the Lessee are legally obligated to indemnify against such claims.

ARTICLE 10 – ASSIGNMENT AND LAND USE AGREEMENTS

- 10.1 The Lessee must not enter into any Land Use Agreement or an assignment or transfer this Agreement without the Lessor's prior written consent. Consent by the Lessor to enter into any Land Use Agreements of a commercial nature and not for Transit Services will be at the sole discretion of the Lessor. Without limiting the foregoing, the Lessee acknowledges that in deciding whether or not to grant consent for the Lessee to enter into an assignment or transfer of this Agreement to a third party, the Lessor may take into account such factors as the financial capabilities, the work-safe record, the environmental record, the current operations and such other factors relating to the third party as the Lessor may deem relevant. The Lessor will notify the Lessee of its decision within Thirty (30) business days of the Lessee requesting consent to enter into any Land Use Agreement or an assignment or transfer of this Agreement.
- 10.2 The Lessee will not be relieved or released of its obligations under this Agreement in the event that the Lessor consents to the Lessee entering into any Land Use Agreement or an assignment or transfer of this Agreement under section 10.1.

ARTICLE 11 - TERMINATION

11.1 The Lessee agrees with the Lessor that:

- (a) if the Lessee
 - (i) defaults in the payment of any money payable by it under this Agreement, or
 - (ii) fails to observe, abide by, perform or comply with the provisions of this Agreement (other than the payment of any money payable under this Agreement), and its default or failure continues for 60 days after the Lessor gives written notice of the default or failure to the Lessee;
- (b) if, in the Lessor's reasonable opinion, the Lessee fails to make diligent use of the Land for the purpose the Transit Services, and its failure continues for 60 days after the Lessor gives written notice of the failure to the Lessee;

this Agreement will, at the Lessor's option and with or without entry, terminate, and all of its right, interest and estate in the Land will be absolutely forfeited to the Lessor and the full amount of Rent payable to the date of termination will become due and payable.

11.2 If the condition complained of in subsection 11.1(a) or (b) (other than the payment of any money payable by the Lessee under this Agreement) reasonably requires more time to cure than 60 days, the Lessee will be deemed to have complied with the remedying of it if the Lessee commences remedying or curing the condition within 60 days and diligently completes the work or action required to remedy or cure the condition.

11.3 On the expiry or earlier termination of this Agreement, the Lessee must:

- (a) peaceably quit and deliver to the Lessor possession of the Land and the Buildings in a safe and secure condition, free of any Contamination related to the Lessee's entry upon, use or occupation of the Land and the Buildings and its operation of the Transit Services;
- (b) the Lessee shall return the Land and the Buildings to the Lessor in a clean and tidy condition; reasonable wear and tear accepted, and shall be responsible for the removal of any improvements, trade fixtures or signage as directed by the Lessor; and
- (c) with respect to any deposit or spill of an Environmental Contaminant on the Land or on land adjoining the Land arising from, related to or in any way connected with, directly or indirectly, the Lessee's use and operation of the Transit Services during the Term, undertake and complete all removal and remedial actions necessary to contain, remove and clean up any such Contaminant to the satisfaction of the Lessor;

and at the expiry or earlier termination of this Agreement, the Lessee will surrender the Land and the Buildings to the Lessor in the condition in which they were required to be kept by the Lessee under the provisions of this Lease, except as otherwise expressly provided in this Lease. The Lessee will not be entitled to any compensation from the Lessor for surrendering and yielding up the Land or the Buildings as provided, and to the extent necessary, this covenant will survive the termination of this Agreement.

11.4 If, after the termination of this Agreement, the Lessor permits the Lessee to remain in possession of the Land and the Buildings and the Lessor accepts money from the Lessee in respect of such possession, a tenancy from year to year will not be created by implication of law and the Lessee will be deemed to be a monthly tenant only subject to all of the provisions of this Agreement, except as to duration and the Lessor's discretion to require Basic Rent in an amount equivalent to the market

value of the monthly lease, in the absence of a written agreement to the contrary.

ARTICLE 12 - DISPUTE RESOLUTION

- 12.1 If any dispute arises under this Agreement, the Parties will attempt to resolve the dispute within 60 days of the dispute arising (or within such other time period agreed to by the Parties) and, subject to applicable laws, provide candid and timely disclosure to each other of all relevant facts, information and documents to facilitate those efforts.
- 12.2 If a dispute under this Agreement cannot be resolved under section 12.1, the dispute will be resolved by arbitration conducted by a sole arbitrator appointed pursuant to the *Arbitration Act* (British Columbia).
- 12.3 The cost of the arbitration referred to in section 12.2 will be shared equally by the Parties and the arbitration will be governed by the laws of the Province of British Columbia and the laws of Canada applicable therein
- 12.4 The arbitration will be conducted at the offices of the Lessor in Vancouver, British Columbia.

ARTICLE 13 - NOTICE

- 13.1 Any notice or other document required or permitted to be given by either Party to the other must be in writing and will be deemed to be given if mailed by prepaid registered mail in Canada or delivered to the address of the other as follows:

to the Lessor:

BC Transportation and Financing Authority
5A – 940 Blanshard Street
Victoria, BC V8W 9T5
Attention: Kevin House
E-mail: Kevin.House@gov.bc.ca

to the Lessee:

BC Transit
Real Estate Department
520 Gorge Road,
Victoria BC V8W 2P3
Attention: Don Milligan
E-mail: don_milligan@BCtransit.com
Telephone: (250) 727-8700

or at such other address as a Party may, from time to time, direct in writing, and any such notice will be deemed to have been received if delivered, on the day of delivery, and if mailed, 7 days after the time of mailing, except in the case of mail interruption in which case actual receipt is required.

- 13.2 In order to expedite the delivery of any notice or other document required or permitted to be given by either Party to the other, a concurrent e-mail copy of any notice will, where possible, be provided to the other Party but nothing in this section, and specifically the lack of delivery of a e-mail copy of any notice, will affect the deemed delivery provided in section 13.1.

- 13.3 The delivery of all money payable to the Lessor under this Agreement will be affected by hand, courier or prepaid regular mail to the Lessor's address specified in or otherwise established under section 13.1, or by any other payment procedure agreed to by the Parties, such deliveries to be effective on actual receipt.

ARTICLE 14 - MISCELLANEOUS

- 14.1 No provision of this Agreement will be considered to have been waived unless the waiver is in writing, and a waiver of a breach of a provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other provision of this Agreement, and a consent or approval to any act requiring consent or approval will not waive or render unnecessary the requirement to obtain consent or approval to any subsequent same or similar act.
- 14.2 No remedy conferred upon or reserved to the Parties under this Agreement is exclusive of any other remedy in this Agreement or provided by law, but that remedy will be in addition to all other remedies in this Agreement or then existing at law, in equity or by statute.
- 14.3 This Agreement extends to, is binding upon and enures to the benefit of the Parties, their successors and permitted assigns.
- 14.4 If, due to a strike, lockout, labour dispute, act of God, inability to obtain labour or materials, law, ordinance, rule, regulation or order of a competent governmental authority, enemy or hostile action, civil commotion, fire or other casualty or any condition or cause beyond its reasonable control, other than normal weather conditions, the Lessee is delayed in performing any of its obligations under this Agreement, the time for the performance of that obligation will be extended by a period of time equal to the period of time of the delay so long as the Lessee:
- (a) gives notice to the Lessor within 30 days of the commencement of the delay setting forth the nature of the delay and an estimated time frame for the performance of its obligation; and
 - (b) diligently attempts to remove the delay.
- 14.5 The Lessee agrees with the Lessor that:
- (a) the Lessor is not under an obligation, express or implied, to provide financial assistance or to contribute toward the cost of servicing, creating or developing the Land or Buildings and the Lessee is solely responsible for all costs and expenses associated with its use of the Land and the Buildings for the purposes set out in this Agreement;
 - (b) nothing in this Agreement constitutes the Lessee as an agent, joint venturer or partner of the Lessor or gives the Lessee any authority or power to bind the Lessor in any way;
 - (c) any information regarding this Agreement or the Lessee may be disclosed or required to be disclosed under the *Freedom of Information and Protection of Privacy Act*, *Access to Information Act* (Canada), governmental policy or otherwise; and
 - (d) in accordance with subsection 5(2) of the *Property Law Act*, the Lessor is under no obligation to deliver this Agreement to the Lessee in a form that can be registered under the *Land Title Act*.
- 14.6 There are no warranties, representations, collateral agreements or conditions affecting this Agreement except as set out in this Agreement.

ARTICLE 15 - INTERPRETATION

- 15.1 In this Agreement, "person" includes a corporation, firm or association and wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case maybe, and vice versa where the context or Parties require.
- 15.2 The captions and headings contained in this Agreement are for convenience only and do not define or in any way limit the scope or intent of this Agreement.
- 15.3 This Agreement will be interpreted according to the laws of the Province of British Columbia and the laws of Canada applicable therein.
- 15.4 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Agreement, that reference will include a reference to every amendment to it, every regulation made under it and any subsequent enactment of like effect and, unless otherwise indicated, all enactments referred to in this Agreement are enactments of the Province of British Columbia.
- 15.5 If any section of this Agreement, or any part of a section, is found to be illegal or unenforceable, that section or part of a section, as the case may be, will be considered separate and severable and the remainder of this Agreement will not be affected and this Agreement will be enforceable to the fullest extent permitted by law.
- 15.6 Each schedule to this Agreement is an integral part of this Agreement as if set out at length in the body of this Agreement.
- 15.7 This Agreement may not be modified except by subsequent agreement in writing between the Parties.
- 15.8 Each Party will, upon the request of the other, do or cause to be done all lawful acts necessary for the performance of the provisions of this Agreement.
- 15.9 Time is of the essence of this Agreement.
- 15.10 Wherever this Agreement provides that an action may be taken, a consent or approval must be obtained or a determination must be made then each Party will act reasonably in taking such action, deciding whether to provide such consent or approval or making such determination; but where this Agreement states that a party has sole discretion to take an action, provide a consent or approval or make a determination, there will be no requirement to show reasonableness or to act reasonably in taking that action, providing that consent or approval or making the determination.
- 15.11 This Agreement may be signed in counterparts and transmitted by electronic means. Each counterpart shall be deemed an original and all counterparts together shall constitute one agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement as set out below.

BC TRANSPORTATION FINANCING AUTHORITY

by its authorized signatory this 3rd day of November 2021:

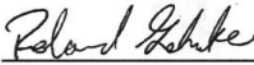
Print name:


Kevin House, Director, Land Management & Dispositions
Ministry of Transportation & Infrastructure

BC TRANSIT

by its authorized signatories this 29 day of October 2021:


Print name: Aaron Lamb, Vice President and Chief Sustainability Officer


Print name: Roland Gehrke, Vice President and Chief Financial Officer

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